

AMENDED IN ASSEMBLY APRIL 7, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 260

Introduced by Assembly Member Lopez
(Coauthor: Assembly Member Cristina Garcia)

February 9, 2015

An act to amend Sections 300 and 16002.5 of, and to add ~~Section Sections 361.8 and 825.5~~ to, the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

AB 260, as amended, Lopez. Foster care: parenting youth.

Existing law establishes the jurisdiction of the juvenile court, which may adjudge a child to be a dependent of the court under certain circumstances, including when the child has been left without any provision for support or when a parent or guardian fails to provide the child with adequate food, clothing, shelter, or medical treatment. Existing law provides that the Legislature declares that a child whose parent has been adjudged a dependent child of the court shall not be considered at risk of abuse or neglect solely because of the age, dependent status, or foster care status of the parent.

This bill would additionally declare that a child whose parent has been adjudged a dependent child of the court shall not be considered at risk of abuse or neglect solely on the basis of information concerning the parent's placement history, *past* behaviors, health or mental health diagnoses *occurring prior to the pregnancy, or any other circumstances, occurring prior to the birth of the child except as specified.*

Existing law provides that reunification services need not be provided to the family of a dependant child under certain circumstances.

This bill would enact certain exceptions to that provision that would apply in the case of a child for whom one or both minor parents have been adjudged to be dependent children of the juvenile court. The bill would also require, in those cases, a party seeking an involuntary foster care placement of, or termination of parental rights over, a child born to a parent or parents who were minors at the time of the child's birth to demonstrate to the court that reasonable efforts were made to provide remedial services designed to prevent the removal of the child from the minor parent or parents, that these efforts have proved unsuccessful, and that those efforts utilize the available resources of the child and his or her minor parent or parents extended family, social services agencies, caregivers, and other available service providers. By imposing a higher level of service on county employees, the bill would impose a state-mandated local program.

Existing law requires the clerk of the superior court to open a separate court file for nonminor dependents under the dependency, delinquency, or transition jurisdiction of the court and limits access to those files.

This bill would require the clerk of the superior court to maintain court files and records concerning a minor dependent parent or a nonminor dependent parent separate from court files and records concerning his or her child, as specified. The bill would ~~prohibit~~ *authorize* dependency court records concerning a minor dependent parent or a nonminor dependent parent ~~from being to be~~ disclosed to ~~counsel the county in the child's dependency proceedings or~~ *proceedings, but would prohibit those records from being* admitted as evidence in the child's dependency ~~proceedings~~ *proceedings*, except pursuant to a certain court order.

Existing law declares the intent of the Legislature to maintain the continuity of the family unit and to support and preserve families headed by minor ~~dependant~~ *dependent* parents and nonminor dependent parents. Existing law requires foster care placements for minor parents and their children to demonstrate a willingness and ability to provide support and assistance to minor parents and their children.

This bill would additionally require those foster care placements to support the preservation of the family unit and provide preventive services to address any concerns regarding the safety, health, or well-being of the child, and to prevent, whenever possible, the filing of a petition to declare the child a dependent of the juvenile court.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 300 of the Welfare and Institutions Code
2 is amended to read:
3 300. Any child who comes within any of the following
4 descriptions is within the jurisdiction of the juvenile court which
5 may adjudge that person to be a dependent child of the court:
6 (a) The child has suffered, or there is a substantial risk that the
7 child will suffer, serious physical harm inflicted nonaccidentally
8 upon the child by the child's parent or guardian. For the purposes
9 of this subdivision, a court may find there is a substantial risk of
10 serious future injury based on the manner in which a less serious
11 injury was inflicted, a history of repeated inflictions of injuries on
12 the child or the child's siblings, or a combination of these and other
13 actions by the parent or guardian which indicate the child is at risk
14 of serious physical harm. For purposes of this subdivision, "serious
15 physical harm" does not include reasonable and age-appropriate
16 spanking to the buttocks where there is no evidence of serious
17 physical injury.
18 (b) (1) The child has suffered, or there is a substantial risk
19 that the child will suffer, serious physical harm or illness, as a
20 result of the failure or inability of his or her parent or guardian to
21 adequately supervise or protect the child, or the willful or negligent
22 failure of the child's parent or guardian to adequately supervise
23 or protect the child from the conduct of the custodian with whom
24 the child has been left, or by the willful or negligent failure of the
25 parent or guardian to provide the child with adequate food,
26 clothing, shelter, or medical treatment, or by the inability of the
27 parent or guardian to provide regular care for the child due to the
28 parent's or guardian's mental illness, developmental disability, or
29 substance abuse. No child shall be found to be a person described

1 by this subdivision solely due to the lack of an emergency shelter
2 for the family. Whenever it is alleged that a child comes within
3 the jurisdiction of the court on the basis of the parent's or
4 guardian's willful failure to provide adequate medical treatment
5 or specific decision to provide spiritual treatment through prayer,
6 the court shall give deference to the parent's or guardian's medical
7 treatment, nontreatment, or spiritual treatment through prayer alone
8 in accordance with the tenets and practices of a recognized church
9 or religious denomination, by an accredited practitioner thereof,
10 and shall not assume jurisdiction unless necessary to protect the
11 child from suffering serious physical harm or illness. In making
12 its determination, the court shall consider (1) the nature of the
13 treatment proposed by the parent or guardian, (2) the risks to the
14 child posed by the course of treatment or nontreatment proposed
15 by the parent or guardian, (3) the risk, if any, of the course of
16 treatment being proposed by the petitioning agency, and (4) the
17 likely success of the courses of treatment or nontreatment proposed
18 by the parent or guardian and agency. The child shall continue to
19 be a dependent child pursuant to this subdivision only so long as
20 is necessary to protect the child from risk of suffering serious
21 physical harm or illness.

22 (2) The Legislature finds and declares that a child who is
23 sexually trafficked, as described in Section 236.1 of the Penal
24 Code, or who receives food or shelter in exchange for, or who is
25 paid to perform, sexual acts described in Section 236.1 or 11165.1
26 of the Penal Code, and whose parent or guardian failed to, or was
27 unable to, protect the child, is within the description of this
28 subdivision, and that this finding is declaratory of existing law.
29 These children shall be known as commercially sexually exploited
30 children.

31 (c) The child is suffering serious emotional damage, or is at
32 substantial risk of suffering serious emotional damage, evidenced
33 by severe anxiety, depression, withdrawal, or untoward aggressive
34 behavior toward self or others, as a result of the conduct of the
35 parent or guardian or who has no parent or guardian capable of
36 providing appropriate care. No child shall be found to be a person
37 described by this subdivision if the willful failure of the parent or
38 guardian to provide adequate mental health treatment is based on
39 a sincerely held religious belief and if a less intrusive judicial
40 intervention is available.

1 (d) The child has been sexually abused, or there is a substantial
2 risk that the child will be sexually abused, as defined in Section
3 11165.1 of the Penal Code, by his or her parent or guardian or a
4 member of his or her household, or the parent or guardian has
5 failed to adequately protect the child from sexual abuse when the
6 parent or guardian knew or reasonably should have known that
7 the child was in danger of sexual abuse.

8 (e) The child is under the age of five years and has suffered
9 severe physical abuse by a parent, or by any person known by the
10 parent, if the parent knew or reasonably should have known that
11 the person was physically abusing the child. For the purposes of
12 this subdivision, “severe physical abuse” means any of the
13 following: any single act of abuse which causes physical trauma
14 of sufficient severity that, if left untreated, would cause permanent
15 physical disfigurement, permanent physical disability, or death;
16 any single act of sexual abuse which causes significant bleeding,
17 deep bruising, or significant external or internal swelling; or more
18 than one act of physical abuse, each of which causes bleeding,
19 deep bruising, significant external or internal swelling, bone
20 fracture, or unconsciousness; or the willful, prolonged failure to
21 provide adequate food. A child may not be removed from the
22 physical custody of his or her parent or guardian on the basis of a
23 finding of severe physical abuse unless the social worker has made
24 an allegation of severe physical abuse pursuant to Section 332.

25 (f) The child’s parent or guardian caused the death of another
26 child through abuse or neglect.

27 (g) The child has been left without any provision for support;
28 physical custody of the child has been voluntarily surrendered
29 pursuant to Section 1255.7 of the Health and Safety Code and the
30 child has not been reclaimed within the 14-day period specified
31 in subdivision (e) of that section; the child’s parent has been
32 incarcerated or institutionalized and cannot arrange for the care of
33 the child; or a relative or other adult custodian with whom the child
34 resides or has been left is unwilling or unable to provide care or
35 support for the child, the whereabouts of the parent are unknown,
36 and reasonable efforts to locate the parent have been unsuccessful.

37 (h) The child has been freed for adoption by one or both parents
38 for 12 months by either relinquishment or termination of parental
39 rights or an adoption petition has not been granted.

1 (i) The child has been subjected to an act or acts of cruelty by
2 the parent or guardian or a member of his or her household, or the
3 parent or guardian has failed to adequately protect the child from
4 an act or acts of cruelty when the parent or guardian knew or
5 reasonably should have known that the child was in danger of
6 being subjected to an act or acts of cruelty.

7 (j) The child's sibling has been abused or neglected, as defined
8 in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk
9 that the child will be abused or neglected, as defined in those
10 subdivisions. The court shall consider the circumstances
11 surrounding the abuse or neglect of the sibling, the age and gender
12 of each child, the nature of the abuse or neglect of the sibling, the
13 mental condition of the parent or guardian, and any other factors
14 the court considers probative in determining whether there is a
15 substantial risk to the child.

16 It is the intent of the Legislature that nothing in this section
17 disrupt the family unnecessarily or intrude inappropriately into
18 family life, prohibit the use of reasonable methods of parental
19 discipline, or prescribe a particular method of parenting. Further,
20 nothing in this section is intended to limit the offering of voluntary
21 services to those families in need of assistance but who do not
22 come within the descriptions of this section. To the extent that
23 savings accrue to the state from child welfare services funding
24 obtained as a result of the enactment of the act that enacted this
25 section, those savings shall be used to promote services which
26 support family maintenance and family reunification plans, such
27 as client transportation, out-of-home respite care, parenting
28 training, and the provision of temporary or emergency in-home
29 caretakers and persons teaching and demonstrating homemaking
30 skills. The Legislature further declares that a physical disability,
31 such as blindness or deafness, is no bar to the raising of happy and
32 well-adjusted children and that a court's determination pursuant
33 to this section shall center upon whether a parent's disability
34 prevents him or her from exercising care and control. ~~The~~
35 ~~Legislature further declares that a child whose parent has been~~
36 ~~adjudged a dependent child of the court pursuant to this section~~
37 ~~shall not be considered to be at risk of abuse or neglect solely~~
38 ~~because of the age, dependent status, or foster care status of the~~
39 ~~parent, or solely on the basis of information concerning the parent's~~

1 ~~placement history, behaviors, health or mental health diagnoses,~~
2 ~~or any other circumstances, occurring prior to the birth of the child.~~

3 As used in this section, “guardian” means the legal guardian of
4 the child.

5 SEC. 2. Section 361.8 is added to the Welfare and Institutions
6 Code, to read:

7 361.8. (a) *The Legislature declares that a child for whom one*
8 *or both parents have been adjudged to be dependent children of*
9 *the juvenile court pursuant to Section 300 shall not be considered*
10 *to be at risk of abuse or neglect solely because of the age,*
11 *dependant status, or foster care status of the parents. The*
12 *Legislature further declares that the child shall not be considered*
13 *to be at risk of abuse or neglect solely on the basis of information*
14 *concerning the parent’s or parents’ placement history, past*
15 *behaviors, or health or mental health diagnoses occurring prior*
16 *to the pregnancy, although that information may be taken into*
17 *account when considering whether other factors exist that place*
18 *the child at risk of abuse or neglect.*

19 (b) *In the case of a child for whom one or both minor parents*
20 *have been adjudged to be dependent children of the juvenile court*
21 *pursuant to Section 300, all of the following shall apply:*

22 (1) *Paragraphs (10) and (11) of subdivision (b) of Section 361.5*
23 *shall not apply, unless one or more of the circumstances described*
24 *in paragraphs (1) to (9), inclusive, and paragraphs (12) to (16),*
25 *inclusive, of subdivision (b) of Section 361.5 apply.*

26 (2) *A party seeking an involuntary foster care placement of, or*
27 *termination of parental rights over, a child born to a parent or*
28 *parents who were minors at the time of the child’s birth shall*
29 *demonstrate to the court that reasonable efforts were made to*
30 *provide remedial services designed to prevent the removal of the*
31 *child from the minor parent or parents, and that these efforts have*
32 *proved unsuccessful.*

33 (3) *The efforts made pursuant to paragraph (2) shall utilize the*
34 *available resources of the child and his or her minor parent’s or*
35 *parents’ extended family, social services agencies, caregivers, and*
36 *other available service providers.*

37 (c) *For purposes of this section, “child” and “minor parent”*
38 *shall have the same definitions as in Section 16002.5.*

1 ~~SEC. 2.~~

2 SEC. 3. Section 825.5 is added to the Welfare and Institutions
3 Code, to read:

4 825.5. The clerk of the superior court shall maintain court files
5 and records concerning a minor dependent parent or a nonminor
6 dependent parent of a child who is the subject of a dependency
7 petition separate from court files and records concerning the child.
8 Dependency court records concerning a minor dependent parent
9 or a nonminor dependent parent ~~shall not~~ may be disclosed to
10 ~~counsel the county in the child's dependency proceedings or~~
11 ~~proceedings; however, the records shall not be~~ admitted as
12 evidence in the child's dependency ~~proceedings~~ proceedings, except
13 pursuant to a court order issued in response to a petition filed under
14 ~~subparagraph (P) of paragraph (1) of subdivision (a) of Section~~
15 ~~827.~~ *made in the course of the child's proceedings that the files*
16 *and records contain information that is materially relevant to the*
17 *case, subject to the provisions of subdivision (a) of Section 361.8.*

18 ~~SEC. 3.~~

19 SEC. 4. Section 16002.5 of the Welfare and Institutions Code
20 is amended to read:

21 16002.5. It is the intent of the Legislature to maintain the
22 continuity of the family unit and to support and preserve families
23 headed by minor parents and nonminor dependent parents who
24 are themselves under the jurisdiction of the juvenile court by
25 ensuring that minor parents and nonminor dependent parents and
26 their children are placed together in as family-like a setting as
27 possible, unless it has been determined that placement together
28 poses a risk to the child. It is also the intent of the Legislature to
29 ensure that complete and accurate data on parenting minor and
30 nonminor dependents is collected, and that the State Department
31 of Social Services shall ensure that the following information is
32 publicly available on a quarterly basis by county about parenting
33 minor and nonminor dependents: total number of parenting minor
34 and nonminor dependents in each county, their age, their ethnic
35 group, their placement type, their time in care, the number of
36 children they have, and whether their children are court dependents.

37 (a) To the greatest extent possible, minor parents and nonminor
38 dependent parents and their children shall be provided with access
39 to existing services for which they may be eligible, that are
40 specifically targeted at supporting, maintaining, and developing

1 both the parent-child bond and the dependent parent's ability to
2 provide a permanent and safe home for the child. Examples of
3 these services may include, but are not limited to, child care,
4 parenting classes, child development classes, and frequent
5 visitation.

6 (b) Child welfare agencies may provide minor parents and
7 nonminor dependent parents with access to social workers or
8 resource specialists who have received training on the needs of
9 teenage parents and available resources, including, but not limited
10 to, maternal and child health programs, child care, and child
11 development classes. Child welfare agencies are encouraged to
12 update the case plans for pregnant and parenting dependents within
13 60 calendar days of the date the agency is informed of a pregnancy.
14 When updating the case plan, child welfare agencies may hold a
15 specialized conference to assist pregnant or parenting foster youth
16 and nonminor dependents with planning for healthy parenting and
17 identifying appropriate resources and services, and to inform the
18 case plan. The specialized conference shall include the pregnant
19 or parenting minor or nonminor dependent, family members, and
20 other supportive adults, and the specially trained social worker or
21 resource specialist. The specialized conference may include other
22 individuals, including, but not limited to, a public health nurse, a
23 community health worker, or other personnel with a comprehensive
24 knowledge of available maternal and child resources, including
25 public benefit programs. Participation in the specialized conference
26 shall be voluntary on the part of the foster youth or nonminor
27 dependent and assistance in identifying and accessing resources
28 shall not be dependent on participation in the conference.

29 (c) The minor parents and nonminor dependent parents shall be
30 given the ability to attend school, complete homework, and
31 participate in age and developmentally appropriate activities
32 unrelated to and separate from parenting.

33 (d) Child welfare agencies, local educational agencies, and child
34 care resource and referral agencies may make reasonable and
35 coordinated efforts to ensure that minor parents and nonminor
36 dependent parents who have not completed high school have access
37 to school programs that provide onsite or coordinated child care.

38 (e) Foster care placements for minor parents and nonminor
39 dependent parents and their children shall demonstrate a
40 willingness and ability to provide support and assistance to minor

1 parents and nonminor dependent parents and their children, shall
2 support the preservation of the family unit, and shall provide
3 preventive services to address any concerns regarding the safety,
4 health, or well-being of the child, and to prevent, whenever
5 possible, the filing of a petition to declare the child a dependent
6 of the juvenile court pursuant to Section 300.

7 (f) Contact between the child, the custodial parent, and the
8 noncustodial parent shall be facilitated if that contact is found to
9 be in the best interest of the child.

10 (g) For the purpose of this section, “child” refers to the child
11 born to the minor parent.

12 (h) For the purpose of this section, “minor parent” refers to a
13 dependent child who is also a parent.

14 (i) For the purpose of this section, “nonminor dependent parent”
15 refers to a nonminor dependent, as described in subdivision (v) of
16 Section 11400, who also is a parent.

17 *SEC. 5. If the Commission on State Mandates determines that*
18 *this act contains costs mandated by the state, reimbursement to*
19 *local agencies and school districts for those costs shall be made*
20 *pursuant to Part 7 (commencing with Section 17500) of Division*
21 *4 of Title 2 of the Government Code.*